

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alexander Opoku-Agyemang	Team: Team # 5	CCRB Case #: 201309979	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/22/2013 5:50 AM	Location of Incident: § 87(2)(b)	Precinct: 73	18 Mo. SOL 4/22/2015	EO SOL 4/22/2015	
Date/Time CV Reported Thu, 10/24/2013 9:07 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 10/24/2013 9:07 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. An officer			NARCBBN
2. CPT Fernando Guimaraes	00000	915848	NARCBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Frank Sarrica	02255	924463	NARCBBN

Officer(s)	Allegation	Investigator Recommendation
A.CPT Fernando Guimaraes	Abuse: Capt. Fernando Guimaraes entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B. An officer	Discourtesy: An officer spoke rudely to § 87(2)(b)	§ 87(2)(b)

Case Summary

On October 24, 2013, § 87(2)(b) called CCRB and filed the following complaint (Encl. 2A-B).

At approximately 5:50 a.m. on October 22, 2013, a search warrant was executed at § 87(2)(b), in Brooklyn. The following allegations resulted:

- **Allegation A – Abuse of Authority – Capt. Fernando Guimaraes entered and searched § 87(2)(b), in Brooklyn.**

§ 87(2)(g)

- **Allegation B – Discourtesy – An officer spoke rudely to § 87(2)(b)**

§ 87(2)(g)

This case was ineligible for mediation due to the fact that § 87(2)(b) § 87(2)(b) was arrested during this incident.

Results of Investigation

Civilian Statement(s)

Victim: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) at time of the incident, is an approximately 5'0" tall, 99-pound black female with black hair and brown eyes. At the time of her interview, § 87(2)(b) § 87(2)(b) resided at § 87(2)(b), in Brooklyn § 87(2)(b). She is the mother of § 87(2)(b) and § 87(2)(b) e.

Telephone Statement

The CCRB contacted § 87(2)(b) § 87(2)(b) on November 25, 2013, and she provided a telephone statement (Encl. 3B). § 87(2)(b) was in her bedroom in § 87(2)(b), when two officers entered and handcuffed her. The officers placed her and her son § 87(2)(b) in the living room while they searched her apartment, damaging the dresser in her bedroom in the process. There were approximately five officers in the apartment, including one female officer. § 87(2)(b) did not know why the officers were at the apartment. She never asked to see a search warrant and never heard § 87(2)(b) do so either. They were both taken to the stationhouse but § 87(2)(b) was released at the stationhouse.

CCRB Testimony

On January 31, 2014 § 87(2)(b) was interviewed at the CCRB (Encl. 3C-H). § 87(2)(b) explained that she resided at § 87(2)(b) with her § 87(2)(b) son § 87(2)(b) her § 87(2)(b) son § 87(2)(b) and her § 87(2)(b) daughter § 87(2)(b) e. The apartment has three bedrooms, one for § 87(2)(b) one for § 87(2)(b) and one which § 87(2)(b) shares with § 87(2)(b) e. She noted that the front door of the apartment opens into a hallway inside the apartment. The first room to the left in the hallway is the bathroom. Following the bathroom is the living room. And at the rear of the apartment are the three bedrooms.

At approximately 6:00 a.m. on October 22, 2013, § 87(2)(b) woke up and went to the bathroom to take a shower. As § 87(2)(b) turned on the shower, she heard what sounded to her to be the front door of

the apartment being “kicked” open. § 87(2)(b) still naked, ran from the bathroom to the living room. She then saw approximately five to six male officers entering the apartment with their guns drawn and flashlights on. All of the officers were in uniform and wearing helmets. Approximately three of them were carrying large shields and one was carrying a large and heavy-looking battering ram. § 87(2)(b) could not describe any of the officers in detail but noted that one of them was larger and taller than the rest. An officer asked § 87(2)(b) where her clothes were but she was panicking and shaking and was having difficulty breathing or talking. § 87(2)(b) eventually replied that her clothes and kids were in her bedroom. The large handcuffed her in the living room while the rest of the officers went further into the apartment. § 87(2)(b) and § 87(2)(b) were quickly brought out of their bedrooms and sat with § 87(2)(b) in the living. Neither § 87(2)(b) nor § 87(2)(b) was handcuffed. § 87(2)(b) however, was not brought out to the living room until approximately two hours after the officers first entered the apartment. § 87(2)(b) explained that, from the living room a person could not see the bedrooms and she did not know what was going on in § 87(2)(b)'s bedroom during this time. During this time, some of the officers were with § 87(2)(b) and her two minor children while the rest were at the rear of the apartment, § 87(2)(b) believed in § 87(2)(b)'s room. The officers did not ask § 87(2)(b) any questions or tell her why they were there.

When § 87(2)(b) was brought out to the living room, he was in handcuffs. § 87(2)(b) did not see any injuries on § 87(2)(b). The officers spoke with § 87(2)(b) in the living room but § 87(2)(b) did not recall the substance of their conversations, though she recalled that § 87(2)(b) was very angry and was asking the officers why they were there. § 87(2)(b) did not hear the officers mention a search warrant or see them show her a search warrant. She did not hear § 87(2)(b) request to see a search warrant from the officers. § 87(2)(b) did not see any officers aside from the five or six who initially entered the apartment enter the apartment while she was there.

§ 87(2)(b) was taken out of the apartment by officers. § 87(2)(b) was uncuffed and allowed to put her clothes on, and then recuffed. § 87(2)(b) was then taken outside. When § 87(2)(b) who was sitting in a police car, saw § 87(2)(b) he began kicking the doors of the police car and asking why they were arresting his mother. § 87(2)(b) and § 87(2)(b) were both taken to the 73rd Precinct stationhouse in the same vehicle. At approximately 2:00 p.m., § 87(2)(b) was released from the stationhouse without any summonses or charges, while § 87(2)(b) was kept at the stationhouse. (After the interview, § 87(2)(b) explained that § 87(2)(b) and § 87(2)(b) were taken by the officers as well and given back to her at the time of her release from the stationhouse). When § 87(2)(b) returned home, her apartment was “messed up.” The officers had taken clothes out of drawers, drawers out of dressers, beddings off the beds, and cooking utensils out of cupboards and left them on the floor. She stated, however, that the only item that was damaged was a drawer in a dresser in § 87(2)(b)'s room that no longer slid into its slot properly. She stated that § 87(2)(b)'s bed was also damaged but she could not describe the actual damage that had occurred to it. She stated that she did not have any pictures of the damage and that § 87(2)(b) had fixed the damage in the intervening time.

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) at time of the incident, is a 5'6" tall, 160-pound black male with black hair and brown eyes. At the time of his telephone statement, § 87(2)(b) resided at § 87(2)(b) in Brooklyn. He is the son of § 87(2)(b).

Telephone Statement

The CCRB contacted § 87(2)(b) on November 25, 2013, and he provided a telephone statement (Encl. 3A). § 87(2)(g)

At approximately 5:50 a.m. on October 22, 2013, § 87(2)(b) was asleep in his bedroom in § 87(2)(b) when he heard two loud bangs. § 87(2)(b) was alone in his bedroom but his mother, § 87(2)(b) and two minor siblings, § 87(2)(b) and § 87(2)(b), were in a separate room in the apartment. § 87(2)(b) was still lying in his bed when four unidentified white male officers entered his room with their guns drawn: an approximately 5'6" to 5'8" tall plainclothes white male wearing a sweater, jeans and a winter hat and holding a handgun, a "big" white male wearing a SWAT-style uniform and a helmet and carrying a shield, a white male wearing a SWAT-style uniform and a helmet and carrying a handgun, and a white male wearing a SWAT-style uniform and a helmet and carrying an assault rifle. The two officers with handguns grabbed § 87(2)(b) in bed, pushed him onto the ground, and attempted to place handcuffs on him. § 87(2)(b) asked what was going on and the plainclothes officer told him to "shut the fuck up" and punched him in the face. § 87(2)(b) asked why he had punched him and the plainclothes officer punched him a second time.

The officers handcuffed § 87(2)(b) and took him to the living room. § 87(2)(b) asked another officer, an approximately 5'6" to 5'7" tall plainclothes white male with a balding head and a protruding stomach and wearing a grey NYPD sweater and jeans, to see their search warrant. The officer stated that he would show it to § 87(2)(b) later but he never did so. § 87(2)(b) stated that the same set of officers had served a search warrant at his residence earlier in 2013.

On November 25, 2013, after five calls had been made and two letters had been sent to him, § 87(2)(b) scheduled an interview appointment for December 4, 2013. On December 4, 2013, § 87(2)(b) failed to appear for his interview appointment and did not call to cancel or reschedule. On December 31, 2013, § 87(2)(b) called the CCRB and scheduled an interview appointment for January 10, 2014. On January 8, 2014, § 87(2)(b) called to confirm his interview appointment on January 10, 2014. However, on January 10, 2014, § 87(2)(b) failed to appear for his interview appointment and did not call to cancel or reschedule.

Witness: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) at time of the incident, is an approximately 5'0" tall, 90-pound black male with black hair and brown eyes. At the time of his interview, § 87(2)(b) resided at § 87(2)(b), in Brooklyn but was living at § 87(2)(b) in the Bronx.

CCRB Testimony

On February 11, 2014 § 87(2)(b) was interviewed at the § 87(2)(b) (Encl. 3I-M). At approximately 5:50 a.m. on October 22, 2013, § 87(2)(b) was asleep in his mother's bedroom when he was awoken by banging noises coming from elsewhere in the apartment. Several uniformed police officers with bullet-proof vests and helmets then entered the bedroom where he, his mother, and his little sister had been sleeping. § 87(2)(b) had slept, and § 87(2)(b) presumed was, in his own bedroom. All of the officers had their guns, some of which had lighted flashlights attached to them ("like Call of Duty"), drawn, while some had large shields. Some of the officers had "big" guns while others had handguns. § 87(2)(b) could not estimate how many officers entered the bedroom or how many of them were holding which objects. § 87(2)(b) could only describe one of the officers, whom he described as an over six foot tall white male officer with a heavysset build. § 87(2)(b) yelled repeatedly and the large officer told her to "shut up." § 87(2)(b) and § 87(2)(b) remained on the bed in § 87(2)(b)'s bedroom while the officers searched the drawers in the room. The officers handcuffed § 87(2)(b) but not § 87(2)(b) or § 87(2)(b). e. § 87(2)(b) was wearing pajamas but § 87(2)(b) was wearing only shorts and the officers had her put on clothes. § 87(2)(b) heard the officers tell his mother that they were there for drugs. He did not know whether they or his mother ever mentioned a search warrant.

From his mother's bedroom, § 87(2)(b) could not see into § 87(2)(b)'s bedroom but could hear voices coming from there. He heard what he believed to be the voices of officers yelling in § 87(2)(b)'s room and heard one of them yell once, "Shut the fuck up." § 87(2)(b) could not see into § 87(2)(b)'s room and could not see who said this. After some time, § 87(2)(b) was not sure how long after the officers arrived, the officers took § 87(2)(b) and § 87(2)(b) away. § 87(2)(b) stated that he never actually saw § 87(2)(b) on the morning of October 22, 2013. He did not see § 87(2)(b) until § 87(2)(b) returned home either later that day or the following day.

Shortly thereafter, the officers brought dogs into the apartment. As the dogs were brought into the apartment, § 87(2)(b) and § 87(2)(b) were taken out of the apartment by a white female officer and two male officers. These officers were wearing jackets with NYPD written on them but he was unsure whether they were wearing uniforms or plainclothes beneath their jackets. The officers took them to the stationhouse in a black unmarked car, where they were picked up by their older sister shortly thereafter. Later that day, their mother came to their older sister's residence and picked up § 87(2)(b) and § 87(2)(b). When § 87(2)(b) returned home, he observed that § 87(2)(b)'s bedroom was a "mess." The drawers in his dressers had been removed and his clothes were "all over."

NYPD Statements:

Witness Officer: DET. FRANK SARRICA

- Det. Sarrica, § 87(2)(b) old at the time of the incident, is a 5'9" tall, 190-pound Hispanic male with black hair and brown eyes.
- Det. Sarrica worked from 5:00 a.m. to 6:33 p.m. on October 22, 2013. Det. Sarrica was assigned to the 73rd Precinct Module of Brooklyn North Narcotics in regards to a search warrant execution at § 87(2)(b) supervised by Capt. Fernando Guimaraes. He was in plainclothes and assigned to unmarked car #§ 87(2)(b) a black minivan.

Memo Book

§ 87(2)(e), § 87(2)(f)

At 6:10 a.m. on October 22, 2013, a search warrant was executed at § 87(2)(b) with § 87(2)(b) and § 87(2)(b) arrested. At 6:30 p.m. a search of the location was conducted.

Arrest Report

Criminal Court Complaint

Vouchers

The Arrest Report and Criminal Court Complaint for § 87(2)(b)'s arrest (Encl. 4E-H) note that, pursuant to search warrant § 87(2)(b) he was found to be in possession of marijuana, a controlled substance, and drug packaging. He was charged with § 87(2)(b). Marijuana, crack cocaine, paraphernalia, zip-lock bags, a cell-phone, and \$100 were vouchered in regards (Encl. 4K-I).

CCRB Testimony

Det. Sarrica was interviewed at the CCRB on March 11, 2014 (Encl. 3S-U). § 87(2)(e), § 87(2)(f)

Det. Sarrica explained that the front door of § 87(2)(b) is directly opposite the front lobby door of the building. § 87(2)(e)

§ 87(2)(e) On § 87(2)(b), Det. Sarrica was granted Kings County Supreme Court Search Warrant # § 87(2)(b) for the apartment. Det. Sarrica stated that he had previously been involved in another search warrant that had been served at § 87(2)(b) for § 87(2)(b) earlier in 2013 and was therefore familiar with the interior of the apartment.

At approximately 6:10 a.m. on October 22, 2013, Det. Sarrica's team went to serve the search warrant. Det. Sarrica reviewed the tactical plan for the entry and stated that the officers and assignments listed on the tactical plan were accurate. He stated that Capt. Guimaraes was present and was the supervisor of the entry, though he remained outside the door during the initial entry itself. Det. Sarrica was assigned to bunker #1 with Det. Pedro Abreu as his security. Det. Jorge Tricoche and Det. Christopher Lopez were assigned to bunker #2. Det. Sarrica described his bunker as a large black shield with a window and with NYPD written across the front and a strobe light attached. Det. Sarrica was in plainclothes but was wearing a black helmet and a heavy ballistics vest with NYPD patches on the side and NYPD written on the back and front. He stated that the rest of the entry team was dressed in the same way. The officers who were present but did not enter the apartment wore raid jackets with their badges displayed.

Once the officers assigned to the "hydro" and the "ram" breached the door, the two bunker teams entered the apartment. Det. Sarrica and Det. Abreu made a left and headed directly for the bedroom where he knew from the previous search warrant entry to be § 87(2)(b)'s bedroom while the officers assigned to bunker #2 made a right and headed for the living room. Det. Sarrica yelled repeatedly, "Search Warrant, Search Warrant," as he made his way through the apartment. He did not encounter § 87(2)(b) or anyone else in the apartment prior to entering § 87(2)(b)'s bedroom. The rest of the entry team followed quickly behind and were also yelling, "Search Warrant, Search Warrant."

When Det. Sarrica and Det. Abreu entered § 87(2)(b)'s room, he was asleep on his bed, which he recalled to be a mattress lying on the ground. Det. Sarrica and Det. Abreu began "barking" repeatedly at § 87(2)(b) to "Get on the ground" and "Show your hands." § 87(2)(b) awoke but was "uncompliant," simply lying in the bed and looking at the officers. Det. Sarrica told Det. Abreu that it was "clear" and Det. Abreu walked out from behind Det. Sarrica's bunker, approached § 87(2)(b) and handcuffed him. § 87(2)(b) did not resist Det. Abreu's attempt to handcuff him and Det. Abreu did so without issue. Det. Sarrica did not recall whether § 87(2)(b) said anything during their initial entry or his handcuffing. Det. Sarrica did not believe that there were any officers beside he and Det. Abreu at the time § 87(2)(b) was handcuffed. Det. Sarrica never told § 87(2)(b) to "shut the fuck up" and never heard Det. Abreu or any other officer do so. Det. Sarrica did not punch § 87(2)(b) and did not see any other officer do so.

Det. Sarrica personally searched the apartment, including § 87(2)(b)'s room. Ziploc bags used for packaging drugs, a scale, and a quantity of "alleged" crack cocaine were found in § 87(2)(b)'s room. Det. Sarrica explained that the crack cocaine was considered "alleged" because, though the substance appeared to be crack cocaine, when it was tested it was revealed to have been mixed and diluted with so many other chemicals that it contained only a small quantity of actual crack cocaine. Det. Sarrica denied that any furniture was damaged during the search. He stated that § 87(2)(b)'s room was already in disarray, with garbage and clothing all over, prior to his searching it.

Det. Sarrica stated that he was not present when § 87(2)(b) was apprehended. At some point, however, Det. Sarrica went to the living room, where § 87(2)(b) was, showed her the search warrant, and explained to her that they were there to arrest her son. Det. Sarrica never heard § 87(2)(b) request to see the warrant and never showed it to him. He explained he showed the search warrant to § 87(2)(b) because she was he "tenant of record" for the apartment. § 87(2)(b) and § 87(2)(b)'s two younger children were all taken to the stationhouse. Once it was cleared that § 87(2)(b) was not involved in the drugs, she was released.

Officers not Interviewed

§ 87(2)(g)

NYPD Document(s)

Search Warrant

Search Warrant § 87(2)(b) (Encl. 4A) was issued on § 87(2)(b), by Honorable Judge § 87(2)(b) for § 87(2)(b), in Brooklyn. The search warrant was issued for crack cocaine and related paraphernalia, documents, computers, and phones. It also directed officers to search for an approximately 18 to 20 year old, 5'8" tall, 155 pound black male.

Search Warrant Execution Plans

The Pre-and-Post Execution Plans for Search Warrant #§ 87(2)(b) (Encl. 4B-D) note that Capt. Fernando Guimaraes of Brooklyn North Narcotics was the overall entry supervisor. Sgt. John Portalatin, Det. Frank Sarrica, Det. Pedro Abreu, Det. Jorge Tricoche, Det. Christopher Lopez, Det. Sean Finnegan, Det. Andrew Duguid, Det. Christopher Schilling, Det. Andrew Chatman, Det. Evangelos Dimitrakakis, and Det. Susie Peralta of Brooklyn North Narcotics were listed as having been part of the entry and security teams.

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- As of January 14, 2014, no Notice of Claim had been filed with the Comptroller's Office in regards to this incident (Encl. 7E).

Civilian(s) Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian(s) CCRB History

- As of March 11, 2014, § 87(2)(b) and § 87(2)(b) have been involved in the following CCRB complaint (Encl. 1B-C):
 - § 87(2)(b)
- As of March 11, 2014, § 87(2)(b) has been involved in the following CCRB complaint (Encl. 1C):
 - § 87(2)(b)

§ 87(2)(b)

Subject Officer(s) CCRB History

- Capt. Fernando Guimaraes has been a member of the service for eighteen years and there is one substantiated CCRB allegations against him (Encl. 1A):
 - In CCRB case number 200714219, an entry allegation was substantiated against Capt. Guimaraes. The NYPD declined to prosecute Capt. Guimaraes.

Conclusion

Identification of Subject Officer(s)

- Capt. Guimaraes is identified as the supervisor for the search warrant served at § 87(2)(b)'s apartment. § 87(2)(g)
- § 87(2)(g) did not see the individual whom he heard say, "Shut the fuck up." § 87(2)(g)

Allegations not Pleaded

- § 87(2)(g)

Investigative Findings and Recommendations

Allegation A – Abuse of Authority – Capt. Fernando Guimaraes entered and searched § 87(2)(b), in Brooklyn.

§ 87(2)(g)

Allegation B – Discourtesy – An officer spoke rudely to § 87(2)(b)

§ 87(2)(b) failed to appear for two scheduled interview appointments. § 87(2)(b) did not see the officer whom he heard tell § 87(2)(b) to "shut the fuck up" § 87(2)(g)

Team: 5

Investigator: _____ Alexander Opoku-Agyemang April 16, 2014
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date